

**DURHAM, NORTH CAROLINA
MONDAY, SEPTEMBER 17, 2007
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: Deputy City Manager Wanda Page, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read proclamations proclaiming September 15-29, 2007 as Fall Litter Sweep that was presented to Dorothea Pierce who made comments and September 24-29, 2007 as Dollar Wise Week - Saving for Kids and Families presented to Keith Corbett, Vice President of Center for Responsible Lending and Self-Help, who made comments.

City Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Council Member Stith: Walltown Community Annual Picnic and 50th Anniversary of the Royal Ice Cream Parlor Sit-In.

Council Member Stith made comments on a report that designated Durham as a sanctuary city for illegal immigrants. He raised a concern that the issue of the City's policy vs. the practice of Resolution #9046 [Supporting the Rights of Persons Regardless of Immigration Status] was not placed on tonight's agenda.

Based on the discussion held at the Work Session, Mayor Bell stated it was clear the issue would be discussed at the September 20, 2007 Work Session rather than tonight. He made comments on the letters and telephone calls received regarding this matter.

Several council members made comments on the sanctuary city/immigration status issue.

Mayor Pro Tempore Cole-McFadden: North Carolina Central University's win over Elizabeth City State University. She announced the DATA issue will be discussed at the September 20, 2007 Work Session.

Community Development Director Mike Barros introduced Sharlene Abbott, HUD representative, who made comments.

Council Member Clement: Judith Bell and Anjanee Bell; 50th Anniversary of the Royal Ice Cream Parlor Sit-in and Eddie Davis; Swearing-in ceremony of Police Chief Jose Lopez;

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Grandparent Network of Durham kick-off and Duke University.

Council Member Woodard: Preservation Durham; Dianne Pledger and Blues Festival; Old North Durham Neighborhood Association Potluck; 15th Anniversary of Forest at Duke; Sherry DeVries and CenterFest; Duke Blue Devils on winning the football game and the Durham Bulls.

For clarification on the immigration status resolution, Council Member Stith explained why he thought this item would be on the agenda tonight with further discussion on Thursday.

Council Member Brown asked that the staff report from the Police Department concerning this issue be received prior to the Work Session on Thursday.

Mayor Bell: Leukemia and Epilepsy Marches.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. Deputy City Manager Wanda Page requested that Agenda Items #34 [Major Special Use Permit-Reclamation Station Recycling Center] and #38 [1st Amendment to American Tobacco Agreement] be referred back to the administration. She read an announcement concerning the City Implementing Stage III - Moderate Mandatory Conservation of the City's Water Conservation Ordinance, effective 12:01 am on Friday, September 21, 2007. She stated citizens will receive a written warning for the first instance of non-compliance, a notice of violation for a second instance of non-compliance and their water will be terminated for a third violation. She mentioned the City does not have fines associated with this Stage III - Moderate Mandatory Conservation measure.

Council Member Brown asked staff to provide an analysis on the water supply conservation measure of four to five major cities in the state to review their policy, including fines.

Council held discussion on follow through of enforcement measure, receiving updates, implementing monetary fines; Stage II and III measures of the ordinance, limitation on car washes and water usage, notification to citizens, and including wording in the press release to highlight that Durham will run out of water in 74 days.

MOTION by Council Member Woodard seconded by Council Member Catotti to accept the City Manager's priority items was approved at 7:58 p.m. by the following vote: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney and the City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda items 9, 10, 13, 14 and 22 were pulled.

MOTION by Council Member Stith seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Stith seconded by Council Member Catotti to approve City Council Minutes for the August 20, 2007 City Council Meeting was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CITY-COUNTY APPEARANCE COMMISSION - APPOINTMENTS

MOTION by Council Member Stith seconded by Council Member Catotti to appoint the following citizens to the City-County Appearance Commission was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Susan Straw - term will expire April 1, 2010

Kevin Turner - term will expire April 1, 2010

Rebecca Wellborn – term will expire April 1, 2008

SUBJECT: CITIZENS ADVISORY COMMITTEE - APPOINTMENT

MOTION by Council Member Stith seconded by Council Member Catotti to appoint Julius Gregory Barnes to the Citizens Advisory Committee with the term expiring on June 30, 2008 was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: PIGGYBACK PURCHASE – TEN (10) TANDEM AXLE CAB & CHASSIS
- INTERNATIONAL TRUCK AND ENGINE CORPORATION**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with International Truck and Engine Corporation in the amount of \$700,728.00 for providing the City with ten Tandem Axle Cab & Chassis; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: STREET CLOSING – WHITCOMB STREET – 484.46 LINEAR FOOT
WHITCOMB STREET RIGHT-OF-WAY (SC07-01)**

MOTION by Council Member Stith seconded by Council Member Catotti to defer action with regard to the street closing until November 19, 2007 was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: SETTING PUBLIC HEARING TO CONSIDER ORDERING
PETITIONED IMPROVEMENT - SEWER MAIN AND SEWER
OUTFALL ON RED COACH ROAD AND GRAND OAKS ROAD**

MOTION by Council Member Stith seconded by Council Member Catotti to accept a Certificate of Sufficiency from the Manager of Engineering and Stormwater for the following petition; and

To adopt a resolution setting a public hearing for October 1, 2007, to consider ordering the following improvement was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Sewer Main and Sewer Outfall on Red Coach Road from Bivins Road to the North Property Line of PIN #0815-04-51-9487 and Grand Oaks Road from Red Coach Road East to the end of the cul-de-sac

**SUBJECT: OPPORTUNITY LOAN PROGRAM – APPROVAL OF \$30,000.00 LOAN
FOR WELCOME BACK, INC., DBA TOAST PANINOTECA/KELLI AND
WILLIAM BILLY COTTER - SELF-HELP CREDIT UNION**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a Non-Recourse Loan Participation Agreement with Self-Help Credit Union in an amount not to exceed \$30,000.00;

To approve City loan participation in a Self-Help Credit Union Loan to Welcome Back, Inc., dba TOAST Paninoteca/ Kelli and William (Billy) Cotter at 345 W. Main Street; and

To authorize the City Manager to make minor changes to the City's Non-Recourse Loan Participation agreement and other related loan closing documents to be consistent with loan terms and Opportunity Loan Program requirements previously approved by City Council was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: EMERGENCY COMMUNICATIONS NETWORK CONTRACT
RENEWAL - CODE RED EMERGENCY NOTIFICATION SERVICES**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to renew the contract for Code Red Emergency Notification Services between the City of Durham and Emergency Communications Network, Inc. in the amount of \$50,000.00 annually for the next three years expiring July 31, 2010, subject to annual appropriations for this purpose; and

To authorize the City Manager to modify the contract before execution provided that the modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: UPGRADE OF EMERGENCY TELEPHONE SYSTEM - EMBARQ
TELEPHONE COMPANY D/B/A/ CAROLINA TELEPHONE AND
TELEGRAPH COMPANY, EPLUS GROUP, INC., CAROLINA
TELEPHONE AND TELEGRAPH COMPANY, AND/OR POSITRON
PUBLIC SAFETY SYSTEMS**

MOTION by Council Member Stith seconded by Council Member Catotti to find that the products to be purchased are needed and available from only one source of supply;

To authorize the City Manager to execute contracts, and other documents, with Embarq Telephone Company d/b/a/ Carolina Telephone and Telegraph Company, ePlus Group, inc., Carolina Telephone and Telegraph Company, and/or Positron Public Safety Systems for the installment purchase of a Next Generation 911 system in the amount of \$725,879.88 with payments made monthly in the amount of \$20,163.33 per month for 36 months, plus an end of term transition amount of \$60,490.59 and for installation and related services;

To authorize the City Manager to sign additional documents to complete the installment purchase, including documents to make some or all of the items being purchased into collateral for the City's payment obligations; and

To authorize the City Manager to modify the contracts and related documents before execution provided that the modifications do not increase the dollar amount of the purchase price and the modifications are consistent with the general intent of the existing version of the contract was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: PROPOSED ACQUISITION OF PROPERTY LOCATED OFF COLEY
ROAD (PARCEL ID #194891) - MARGARET D. ADAMS, RAY E.**

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ASHLEY AND WIFE, PAULA R. ASHLEY AND ERIC R. POST AND WIFE, CHARITY A. POST

MOTION by Council Member Stith seconded by Council Member Catotti to approve the fee simple absolute acquisition of 20± acres from Margaret D. Adams, Ray E. Ashley and wife, Paula R. Ashley and Eric R. Post and wife, Charity A. Post, identified as Parcel ID #194891 for \$400,000.00; and

To authorize the City Manager to enter into an escrow agreement if remediation is necessary and to make changes to the agreement provided such changes are consistent with the substance of the sample escrow agreement was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: ACCEPTANCE OF LAND AND IMPROVEMENTS FROM DURHAM COUNTY (PARCEL ID 163519)

MOTION by Council Member Stith seconded by Council Member Catotti to accept the conveyance of property identified as Parcel ID 163519 from Durham County by a Non-Warranty Deed was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: ENO RIVER GREENWAY CMAR CONSTRUCTION SERVICES AMENDMENT - SKANSKA USA BUILDING

MOTION by Council Member Stith seconded by Council Member Catotti to adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal year 2007-2008, the same being Ordinance #13428 for the purpose of increasing the total appropriation for the design and construction of renovations to the Eno River Greenway by \$40,000.00;

To authorize the City Manager to negotiate and execute Amendment No. 2A with Skanska USA Building for construction of Eno River Greenway, if the Guaranteed Maximum Price (GMP) does not exceed \$1,297,081.00;

To establish a project contingency in the amount of \$81,565.00; and

To authorize the City Manager to negotiate and execute change orders on the Eno Greenway Project provided the total project cost does not exceed \$1,378,646.00 which is the full amount budgeted for construction phase services plus the project contingency was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13481

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**SUBJECT: OVAL DRIVE PARK RENOVATION CMAR CONSTRUCTION
SERVICES AMENDMENT - SKANSKA USA BUILDING**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to negotiate and execute Amendment No. 2 with Skanska USA Building for construction of Oval Drive Park Renovations, if the Guaranteed Maximum Price (GMP) does not exceed \$435,794.00 which is the full amount budgeted for construction phase services and establish a project contingency in the amount of \$30,500.00; and

To authorize the City Manager to negotiate and execute change orders on the Oval Drive Park Renovation Project, provided the total project cost does not exceed \$466,294.00 which is the full amount budgeted for construction phase services plus the project contingency was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: INTER-LOCAL AGREEMENT BETWEEN THE CITY OF DURHAM,
CITY OF RALEIGH AND THE TRIANGLE TRANSIT AUTHORITY FOR
REIMBURSEMENT FOR THE SPECIAL TRANSIT ADVISORY
COMMISSION**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute an Inter-local Agreement between the City of Durham, City of Raleigh and the TTA for payment of a share of the cost of a regional transit study in an amount not to exceed \$20,000.00; and

To authorize the City Manager to make modifications to the agreements provided that the modifications do not increase the City's financial obligation and are consistent with the agreement approved by the Council was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: SYSTEM IMPROVEMENTS ENGINEERING DESIGN SERVICES -
KIMLEY-HORN & ASSOCIATES**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a contract with Kimley-Horn & Associates for the System Improvements Engineering Design for a cost not to exceed of \$1,531,100.00; and

To authorize the City Manager to make changes to the contract provided the changes do not increase the amount to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell,

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Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT AMENDMENT #2 - KIMLEY-HORN ASSOCIATES, INC. - EDITH/NINTH STREET OUTFALL REPLACEMENT DESIGN SERVICES

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute contract amendment #2 with Kimley-Horn Associates, Incorporated for Edith/Ninth Street Outfall Replacement Design Services in an amount of \$14,015.10 for a total project cost not to exceed \$445,257.10; and

To authorize the City Manager to make changes to the contract before execution provided the changes do not increase the amount to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

The City Council disposed of the following agenda items at the September 6, 2007 Work Session:

4. Designation of Voting Delegate – North Carolina League of Municipalities Annual Conference, October 14-16, 2007 Fayetteville, North Carolina

To appoint a Voting Delegate to attend the North Carolina League of Municipalities Annual Business Meeting on Tuesday, October 16, 2007.

Note: This item was referred back to the City Clerk's Office since no one will be attending the NCLM Annual Business Meeting on October 16, 2007.

5. Designation of Voting Delegates – Annual Congress of Cities & Exposition, November 13-17, 2007, New Orleans, Louisiana

To appoint Mayor William V. "Bill" Bell as a Voting Delegate to attend the National League of Cities' Annual Business Meeting on Saturday, November 17, 2007 at the Congress of Cities in New Orleans, Louisiana.

Note: This item was approved at the 09-06-07 Work Session with a vote of 7/0.

11. Amendment to 07-08 CIP Ordinance #13428

To adopt an Ordinance amending the General Capital Improvement Project Ordinance, Fiscal Year 2007-2008, the same being Ordinance #13428 for the purpose of decreasing the

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appropriation Reserve for Pending Projects and increasing the total appropriation for the Elderly/Disabled Minimum Housing Rehabilitation Assistance Program by \$151,624.00.

Note: This item was approved at the 09/06/07 Work Session with a vote of 7/0. Ordinance #13478

12. Proposed Sale of Property at 1403 Taylor Street PIN# 831-10-45-6066

To determine the property at 1403 Taylor Street as surplus;

To authorize the sale of the property under the authority of Section 86 of the City Charter;

To accept the offer to purchase the property located at 1403 Taylor Street; and

To authorize the City Manager to sell and the Mayor to convey the property by a non-warranty deed and authorize the City Manager to terminate the contract for sale if the contract terms are not fulfilled.

Note: This item was approved at the 09/06/07 Work Session with a vote of 7/0.

24. Technical Amendment to Hock Plaza Public Storm Sewer System Contract (Corrected Developer/Contractor Legal Name)

To authorize the City Manager to negotiate and execute a contract with Hock Development Corporation and Abe Utilities Incorporated, in an amount up to \$1,500,000.00 for the storm sewer system improvements within Pratt Street and Douglas Street; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

Note: This item was approved at the 09/06/07 Work Session with a vote of 7/0.

25. Police Department Security Camera Project – Upgrade of 10 Megabit Internet Circuit to 25 Megabit

To authorize the City Manager to amend the current contract (Durham's Contract - 076682 & TWC Contract - 00014285) with Time Warner Cable (TWC) to upgrade an internet circuit to 25 megabits at an additional cost of \$2,700 per month for 6 months, totaling \$16,200; and

To authorize the City Manager to modify the amendment before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

Note: This item was approved at the 09/06/07 Work Session with a vote of 7/0.

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28. County Tax Settlement and Revaluation Presentation

To accept the report of the County Tax Administrator concerning the FY2007 Tax Settlement and the 2008 Revaluation.

Note: A presentation was received at the 09/06/07 Work Session.

35. Wayne Draughon

To receive comments from Wayne Draughon requesting a 60" grave companion marker be installed at the Maplewood Cemetery.

Note: Request was approved at the 09/06/07 Work Session with a vote of 7/0.

36. Grandparent Network of Durham

To receive comments from Dr. John D. Kelley regarding the Grandparent Network of Durham.

Note: Comments were received at the 09/06/07 Work Session.

37. John Hunter, II

To receive comments from John Hunter, II concerning Wynne Road Street Improvements.

Note: This item was deferred to the September 20th Work Session.

39. Discussion on the Resolution Supporting the Rights of Persons Regardless of Immigration Status

(This item was deferred to the September 20, 2007 Work Session)

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - SEWER MAIN ON EASLEY STREET

To receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Easley Street from Oberlin Drive to the East Property Line of PIN 0803-04-53-3802—except for the Donna C. Jenkins and Foy T. Hunt properties, continue the public hearing for those assessments without further advertising and refer those assessments to a future City Council Work Session for further consideration.

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Due to objections, Assistant Engineering Manager for Public Works Ed Venable asked Council to adopt the resolution confirming the assessment roll except for the Donna C. Jenkins and Foy T. Hunt properties, continue the public hearing for those assessments without further advertising and refer those assessments to a future City Council Work Session for further consideration.

Mayor Bell opened the public hearing. There being no further objections, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Easley Street from Oberlin Drive to the East Property Line of PIN 0803-04-53-3802, except for the Donna C. Jenkins and Foy T. Hunt properties, continue the public hearing for those assessments without further advertising and refer those assessments to a future City Council Work Session for further consideration was approved at 8:03 p.m. by the following vote: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - SEWER MAIN ON
HOLLOWAY STREET**

To receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Holloway Street from the West Property Line of PIN 0841-14-44-3521 to Rummel Street.

Assistant Engineering Manager for Public Works Ed Venable made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Holloway Street from the West Property Line of PIN 0841-14-44-3521 to Rummel Street was approved at 8:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: ORDERING PETITIONED IMPROVEMENT - WATER MAIN ON
ROGERS ROAD**

To receive public comments; and

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To adopt a resolution ordering Water Main on Rogers Road from Penrod Road East to the East Property Line of PIN 0852-04-92-7931.

Assistant Engineering Manager for Public Works Ed Venable made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments; and

To adopt a resolution ordering Water Main on Rogers Road from Penrod Road East to the East Property Line of PIN 0852-04-92-7931 was approved at 8:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: VOLUNTARY ANNEXATION PETITIONS RECEIVED BY JULY 2, 2007
- BUNGALOW AVENUE - THE WORSHIP CENTER - CVS PHARMACY
- OBEDIENCE TO THE WORD**

Assistant City Manager for Budget and Strategic Initiatives Julie Brenman made comments on this item. She stated the cost benefit analysis of the two churches shows that the City would incur more expenses than it would receive in revenue; however, the other properties would generate revenue for the City. She noted staff is recommending approval of all four annexations due to proximity to the City limits and service needs for the City.

[EXCUSED ABSENCE]

Council Member Catotti requested to be excused from the meeting due to a family emergency.

MOTION by Council Member Stith seconded by Council Member Woodard to excuse Council Member Catotti from the meeting was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive citizens' comments concerning the annexation of the following Voluntary Annexation Areas was approved at 8:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

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a) FY2007-07 Bungalow Avenue

MOTION by Council Member Stith seconded by Council Member Woodard to adopt “An Ordinance Annexing to the City of Durham” the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58-- effective from and after December 31, 2007; and

To authorize the City Manager to pay the debt service of the Bethesda VFD was approved at 8:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

Ordinance #13482

b) FY2007-09 The Worship Center

MOTION by Council Member Stith seconded by Council Member Woodard to adopt “An Ordinance Annexing to the City of Durham” the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58-- effective from and after December 31, 2007; and

To authorize the City Manager to pay the debt service of the Bethesda VFD was approved at 8:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

Ordinance #13483

c) FY2007-12 CVS Pharmacy

MOTION by Council Member Stith seconded by Council Member Woodard to adopt “An Ordinance Annexing to the City of Durham” the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58-- effective from and after December 31, 2007; and

To authorize the City Manager to pay the debt service of the Bethesda VFD was approved at 8:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

Ordinance #13484

d) FY2007-19 Obedience to the Word

MOTION by Council Member Stith seconded by Council Member Woodard to adopt “An Ordinance Annexing to the City of Durham” the Voluntary Annexation Area in accordance with N.C. General Statutes 160A-58-- effective from and after December 31, 2007; and

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To authorize the City Manager to pay the debt service of the Bethesda VFD was approved at 8:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

Ordinance #13485

SUBJECT: PUBLIC HEARING FOR THE FY 2006-2007 DRAFT CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) ON SEPTEMBER 17, 2007

Juanita Massenburg, of Community Development, made comments on this item.

Mayor Bell opened the public hearing.

Council Member Clement asked staff if this report has been reviewed by the Citizens Advisory Committee.

Juanita Massenburg, of Community Development, replied yes.

Victoria Peterson asked staff how many houses were purchased for persons living in the inner-city through this program and how can money be utilized next year to help local persons to become homeowners to deal with the issue of board up houses.

Juanita Massenburg, of Community Development, replied 51 persons purchased homes through the Home Purchase program and outlined the efforts of how this was achieved. Relative to boarded up houses, she noted staff is reviewing the issue.

Victoria Peterson spoke in support for additional staff in the Community Development Department.

Mayor Bell closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Clement to conduct a public hearing to receive public comments on the FY 2006-2007 Draft Consolidated Annual Performance and Evaluation Report (CAPER) on September 17, 2007 was approved at 8:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

SUBJECT: MAJOR SPECIAL USE PERMIT – RECLAMATION STATION RECYCLING CENTER (M07-01)

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To hold a quasi-judicial public hearing to consider a Major Special Use Permit for a recycling center in the IL zoning district; and

To direct the Planning Director to prepare an order for adoption for: 1) approval, 2) approval with conditions or 3) denial, or to continue the hearing to a specified later meeting. (A draft order for approval with staff recommended conditions will be available at the meeting).

Note: This item was referred back to the administration at the request of Deputy City Manager Wanda Page.

SUBJECT: FIRST AMENDMENT TO AMERICAN TOBACCO AGREEMENT

To conduct a public hearing to receive comments per GS 158-7.1;

To authorize the City Manager to execute the First Amendment to Development Agreement for American Tobacco; and

To authorize the City Manager to modify the contract provided that the modifications do not increase the dollar amount and the modifications are consistent with the general intent of the contract.

Note: This item was referred back to the administration at the request of Deputy City Manager Wanda Page.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: ORDINANCE AMENDING CHAPTER 23-81 OF THE DURHAM CITY CODE TO AUTHORIZE EXTENSIONS OF CITY WATER AND SEWER OUTSIDE THE URBAN GROWTH AREA

Chris Tiffany, of 611 F Lawson Street, stated there is a need to insert a section in the ordinance protecting the watershed for drinking water. He raised a concern about the proposed National Bio-Agro-Defense facility that is being considered near the Durham county line and announced a public hearing is scheduled for tomorrow at South Granville High concerning this issue.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Amending Chapter 23-81 of the Durham City Code to authorize extensions of city water and sewer outside the Urban Growth Area to serve certain facilities to assure adequate water quality and pressure was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

Ordinance #13479

September 17, 2007

SUBJECT: WATER EXTENSION AGREEMENT WITH THE DUKE SCHOOL FOR CHILDREN, INC. - DUKE SCHOOL FOR CHILDREN EXPANSION

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to enter into a water extension agreement with the Duke School for Children, Inc. to Serve the Duke School for Children Expansion was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

SUBJECT: AMENDMENT TO 2007-2009 CITY OF DURHAM EMPLOYMENT AND TRAINING GRANT PROJECT ORDINANCE SUPERSEDING GRANT PROJECT ORDINANCE #13431

Victoria Peterson expressed a concern that there is no breakdown of this item in the amount of \$133,000.00 and made a suggestion that some of the funding be utilized for training.

Kevin Dick, of Economic and Workforce Development, discussed how funds will be utilized, noted a breakdown was provided earlier to the board and will provide Ms. Peterson with a copy of the budget.

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to accept the City of Durham Employment and Training Grant by executing the grant agreement; and

To adopt the City of Durham Employment and Training Grant Project Ordinance for program years 2007 - 2009 as received from the Federal Government through the State of North Carolina and passed through to the Durham Local area superseding Grant Project Ordinance # 13431 was approved at 8:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

Ordinance #13480

SUBJECT: FIRST AMENDMENT TO WIA CONTRACT FOR ADULT AND DISLOCATED WORKERS BETWEEN THE CITY OF DURHAM OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT AND GENERAL MANAGEMENT SOLUTIONS, INC.

Victoria Peterson asked staff how many persons have participated in this program.

Kevin Dick, of Economic and Workforce Development, replied 85 Hurricane Katrina participants.

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MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to enter into a contract amendment with General Management Solutions, Inc. to increase the contract amount to \$200,000.00; and

To authorize the City Manager to modify the contract provided that the modifications do not increase the dollar amount beyond \$200,000.00 and that the modifications are consistent with the general intent of the contract was approved at 8:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

**SUBJECT: CMAR AMENDMENT 2C FOR CONSTRUCTION SERVICES TO
POLICE HEADQUARTERS**

Victoria Peterson made a suggestion that a labor component for this item and new projects be added and to include wording in the contract for companies to hire legal citizens.

City Attorney Blinder briefed Council on whether the City could require contractors and subcontractors to place a stipulation on whom they can hire. He referenced that the law does not allow local government to have a local preference and the City is not allowed to do it for contracts subject to the bid laws and for other contracts--it would raise issues under the federal constitution and commerce clause.

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to execute a contract amendment for construction phase services for the Police Headquarters, if the final GMP offered by the CMAR does not exceed the full amount available for construction of \$3,446,533.40;

To establish a project contingency in the amount of \$165,077.60; and

To authorize the City Manager to negotiate and execute change orders on Amendment No. 2-C, provided the total project cost does not exceed \$3,611,611 which is the full amount budgeted for construction phase services plus the project contingency; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 8:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: None. Excused Absence: Council Member Catotti.

Mayor Bell recognized Bill Johnson for comments. Mr. Johnson asked that former Mayor Harry Rodenhizer and those Council Members who served with him during the period of 1991 – 1993 be recognized for their effort in keeping the Bulls in Durham and for building the Durham Bulls Athletic Park [DBAP].

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Mayor Bell reminded Council Members of the Joint Meeting with the County Commissioners scheduled for Wednesday, September 19, 2007 at 5 p.m. at the County regarding the Greenhouse Gas Action Plan.

Council held discussion on the gang assessment and Council Member Stith requested a copy of preliminary draft.

There being no further business to come before the City Council, the meeting was adjourned at 8:39 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk